

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



Excerpt from [Nebraska State Statute Search](#)

81-3401 Act, how cited.

Sections 81-3401 to 81-3455 shall be known and may be cited as the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 1.

81-3402 Architecture and engineering; regulation; prohibited acts.

In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. It is unlawful for any person to

- (1) practice or offer to practice architecture or engineering in this state,
- (2) use in connection with his or her name, except as provided in sections 81-3413 to 81-3415, or otherwise assume the title architect or professional engineer, or
- (3) advertise any title or description tending to convey the impression that he or she is a licensed architect or engineer unless the person is duly licensed or exempt from licensure under the Engineers and Architects Regulation Act. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.

Source: Laws 1997, LB 622, § 2.

81-3403 Definitions, where found.

For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 81-3404 to 81-3427 shall be used.

Source: Laws 1997, LB 622, § 3.

81-3404 Architect, defined.

Architect means a person who engages in the practice of architecture and who has a current certificate of licensure issued by the board.

Source: Laws 1997, LB 622, § 4.

81-3405 Board, defined.

Board means the Board of Engineers and Architects.

Source: Laws 1997, LB 622, § 5.

81-3406 Consulting engineer, defined.

Consulting engineer means a professional engineer whose principal occupation is the independent practice of engineering, whose livelihood is obtained by offering engineering services to the public, who serves clients as an independent fiduciary, who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest, and who is cognizant of his or her public and legal responsibilities and is capable of discharging them.

Source: Laws 1997, LB 622, § 6.

81-3407 Continuing education, defined.

Continuing education means the process of training and developing knowledge related to a profession after licensure is attained.

Source: Laws 1997, LB 622, § 7.

81-3408 Coordinating professional, defined.

Coordinating professional means an architect or professional engineer who coordinates, as qualified, the various professional disciplines involved in a project.

Source: Laws 1997, LB 622, § 8.

81-3409 Design, defined.

Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features, scope, and detail of an architectural or engineering work to be executed.

Source: Laws 1997, LB 622, § 9.

81-3410 Design profession, design professionals, or licensed professional, defined.

Design profession, design professionals, or licensed professional means the professions of architecture and engineering.

Source: Laws 1997, LB 622, § 10.

81-3411 Direct supervision, defined.

Direct supervision means the degree of supervision by a person overseeing the work of other persons by which the supervisor has control over and professional knowledge of the work being done.

Source: Laws 1997, LB 622, § 11.

81-3412 Emeritus, defined.

Emeritus, referring to an architect or professional engineer, means a professional who relinquishes or does not renew his or her licensure and who is approved by the board to receive publications and use the honorary title emeritus.

Source: Laws 1997, LB 622, § 12.

81-3413 Engineer, defined.

Engineer means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, both of which are satisfactory to the board.

Source: Laws 1997, LB 622, § 13.

81-3414 Engineer-intern, defined.

Engineer-intern means a person who has passed an examination in the fundamental engineering subjects as provided in section 81-3451.

Source: Laws 1997, LB 622, § 14.

81-3415 Estimator, technician, or other similar titles, defined.

Estimator, technician, or other similar titles means a person who through training or experience is performing under the supervision of an architect or professional engineer tasks associated with the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 15.

81-3416 Good moral character, defined.

Good moral character means such character as will enable a person to discharge the fiduciary duties of an architect or professional engineer to his or her client and to the public for the protection of the public health, safety, and welfare. Evidence of inability to discharge such duties includes the commission of an offense justifying discipline.

Source: Laws 1997, LB 622, § 16.

81-3417 Occasional, part-time, or consulting services, defined.

Occasional, part-time, or consulting services means services not provided by a full-time member of an organization engaged in a design profession.

Source: Laws 1997, LB 622, § 17.

81-3418 Organization, defined.

Organization includes a partnership, limited liability company, corporation, or other form of business entity but not public service providers.

Source: Laws 1997, LB 622, § 18.

81-3419 Planning, defined.

Planning means the mental formulation and written or graphic representation of a program for the accomplishment or attainment of design.

Source: Laws 1997, LB 622, § 19.

81-3420 Practice of architecture, defined.

Practice of architecture means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings. The services include planning, providing preliminary studies, designs, drawings, specifications, and other technical submissions, administration of construction contracts, coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects, and acting as a coordinating professional. The practice of architecture does not include the practice of engineering.

Source: Laws 1997, LB 622, § 20.

81-3421 Practice of engineering, defined.

Practice of engineering means any service or creative work if the adequate performance of the service or work requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to include such services or creative work as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, the review of construction for the purpose of monitoring compliance with drawings and specifications, administration of construction contracts, and acting as a coordinating professional, and any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or

thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services. The practice of engineering does not include the practice of architecture.

Design coordination includes the review and coordination of those technical submissions prepared by others, including, but not limited to, as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the professional engineer. Engineering surveys includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineering projects but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she:

- (1) Practices any branch of the profession of engineering;
- (2) by verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional engineer;
- (3) through the use of some other title, implies that he or she is a professional engineer or licensed under the Engineers and Architects Regulation Act; or
- (4) holds himself or herself out as able to perform or does perform any engineering service or work or any other service designated by the practitioner which is recognized by the board as engineering. The practice of engineering does not include the services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, and marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant.

Source: Laws 1997, LB 622, § 21.

81-3422 Professional engineer, defined.

Professional engineer means a person who is licensed as a professional engineer by the board. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the professional engineer has demonstrated competence.

Source: Laws 1997, LB 622, § 22.

81-3423 Public service provider, defined.

Public service provider means any political subdivision which appoints a municipal engineer or which employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work.

Source: Laws 1997, LB 622, § 23.

81-3424 Registration or licensure, defined.

Registration or licensure means a certificate of registration or licensure issued by the board. The definition of license and registration shall be synonymous.

Source: Laws 1997, LB 622, § 24.

81-3425 Responsible charge, defined.

Responsible charge means control and supervision for engineering or architectural work.

Source: Laws 1997, LB 622, § 25.

81-3426 Rules and regulations, defined.

Rules and regulations means rules and regulations adopted and promulgated under the Engineers and Architects Regulation Act by the board.

Source: Laws 1997, LB 622, § 26.

81-3427 Technical submissions, defined.

Technical submissions means designs, drawings, specifications, studies, and other technical reports.

Source: Laws 1997, LB 622, § 27.

81-3428 Board of Engineers and Architects; created; members; terms.

(1) The Board of Engineers and Architects is created to administer the Engineers and Architects Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska. The board shall consist of six members appointed by the Governor, after consultation with the appropriate professional organizations, for terms of five years terminating on the last day of February, and two education members appointed as prescribed in subsection (2) of this section. The board shall consist of:

- (a) Three architect members, including one education member;
- (b) Four professional engineer members, including one education member; and
- (c) One public member.

Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Board of Examiners for Professional Engineers and Architects as it existed immediately prior to January 1, 1998, shall serve as the Board of Engineers and Architects until the additional public member is appointed. The Governor shall reappoint or replace existing members as their terms expire, and the public member shall be reappointed or replaced in the fifth year of his or her term.

(2) The board shall include two education members who are licensed in the relevant profession representing the professional faculty of the College of Engineering and Technology and the College of

Architecture within the University of Nebraska, as recommended by the dean of the respective college and appointed by the Governor. The appointments are for five years.

(3) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually.

Source: Laws 1997, LB 622, § 28.

81-3429 Board; members; requirements; per diem; expenses.

Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each professional member shall have been engaged in the active practice of the design profession for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be licensed in the appropriate profession. Each member of the board shall receive as compensation not more than sixty dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees or authorized meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees, and all necessary expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1997, LB 622, § 29.

81-3430 Certificate of appointment; oath; Attorney General; legal advisor; seal; rules and regulations under prior law.

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning his or her term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Engineers and Architects Regulation Act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act. The rules and regulations of the Board of Examiners for Professional Engineers and Architects in effect immediately prior to January 1, 1998, shall continue in effect until changed by the Board of Engineers and Architects.

Source: Laws 1997, LB 622, § 30.

81-3431 Board; meetings; officers; quorum.

The board shall hold at least one regular meeting each year. Special meetings shall be held as the rules and regulations provide and at such places as the board elects. Notice of all meetings shall be given in such manner as the rules and regulations provide. The board shall elect from its members, annually at its first meeting after March 1, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

Source: Laws 1997, LB 622, § 31.

81-3432 Engineers and Architects Regulation Fund; created; use; investment.

The Engineers and Architects Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money in the Professional Engineering and Architectural Examiners' Fund on January 1, 1998, shall be transferred to the Engineers and Architects Regulation Fund.

Source: Laws 1997, LB 622, § 32.

81-3433 Roster.

The secretary of the board shall publish a complete roster showing the names and last-known addresses of all architects and professional engineers at intervals as established by the board. The secretary shall file the roster with the Secretary of State and may mail a copy to each licensed person as well as county and municipal officials. The secretary of the board may also sell or distribute copies of the roster to the public.

Source: Laws 1997, LB 622, § 33.

81-3434 Code of practice; contents.

- (1) The Legislature hereby finds and declares that a code of practice established by the board by which architects and professional engineers could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.
- (2) The code of practice established by this section shall include provisions on:
 - (a) Professional competence;
 - (b) Conflict of interest;
 - (c) Full disclosure of financial interest;
 - (d) Full disclosure of matters affecting public safety, health, and welfare;
 - (e) Compliance with laws;
 - (f) Professional conduct and good character standards; and
 - (g) Practice of architecture and engineering.
- (3) The board may establish a code of practice through rules and regulations.
- (4) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

Source: Laws 1997, LB 622, § 34.

81-3435 Application for licensure or enrollment; form; fees.

- (1) Application for licensure as an architect or professional engineer or enrollment as an engineer-intern shall be made on a form prescribed and furnished by the board. It shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom should be members of the board. The board may accept the verified information contained in a valid Council Record issued by the National Council of Architectural Registration Board or the National Council of Examiners for Engineering and Surveying in lieu of the same information that is required on the form prescribed and furnished by the board.
- (2) Application and licensure fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of examination and its administration.
- (3) The fee for intern enrollment shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.
- (4) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.
- (5) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.
- (6) If the board denies the issuance of a certificate or enrollment to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

Source: Laws 1997, LB 622, § 35.

81-3436 Organizational practice; certificate; authorization; immunity; Secretary of State; registration of trade name or service mark; limitation.

- (1) The practice or offer to practice for others the professions of architecture or engineering by individuals licensed under the Engineers and Architects Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization had been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of architecture and engineering, when issued or filed for public record, shall be dated and bear the signature and seal of the licensee qualified in the profession who prepared the submission or under whose immediate direction they were prepared. Public service providers are not included in this section.
- (2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, listing the names and addresses of all officers of the organization, the members of the organization's governing body, and the individual or individuals duly licensed to practice their respective professions in this state who shall be in responsible charge of the practice of those professions in the state through the organization. Any change in status of any of these persons during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

- (3) The act shall not prevent an organization from performing professional services for itself.
- (4) An organization is not relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing architecture or engineering is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.
- (5) Commencing one year after January 1, 1998, the Secretary of State shall not issue a certificate of authority to do business in the state to an applicant or issue a registration of name to an organization which includes among the objectives for which it is established the practice of architecture or engineering, or any modification or derivation of those design professions, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate. The organization shall supply the certificate or letter with its application for incorporation or licensure.
- (6) Commencing one year after January 1, 1998, the Secretary of State shall not register any trade name or service mark which includes the words architect or engineer, or any modification or derivative of such words, in its firm name or logotype except to those organizations holding authorization certificates issued by the board except as authorized in the act or in the Professional Landscape Architects Act.
- (7) The certificate of authorization shall be renewed periodically as required by the board.
- (8) A design professional who renders occasional, part-time, or consulting services to or for an organization may not for the purposes of this section be designated as being responsible for the professional activities of the organization.

Source: Laws 1997, LB 622, § 36.

81-3437 Certificate of licensure; issuance; seal; use; enrollment card; issuance.

- (1) The board shall issue to any applicant who, on the basis of education, experience, and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of licensure giving the licensee proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Architect or Licensed Professional (discipline) Engineer. The certificate shall give the full name of the licensee and license number and shall be signed by the chairperson of the board, the secretary of the board, and a board member representing the respective profession under the seal of the board.
- (2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of an architect or a professional engineer while the certificate of licensure remains unrevoked and unexpired.
- (3)
 - (a) Each licensee authorized to practice architecture or engineering must obtain a seal. It shall be unlawful for a licensee to affix his or her seal and signature or to permit his or her seal and signature to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.
 - (b) The seal may be a rubber stamp or may be generated electronically. Whenever the seal is applied, the licensee's written signature and the date shall be across the seal. No further words or wording are required. Electronic signatures applied to electronic seals must be protected with an electronic revision approval system. Documents without electronic revision approval protection that are transmitted electronically to a client or a governmental agency shall have the seal removed from the file. The electronic media shall have the following inserted in lieu of the seal, signature, and date: This document was originally issued and sealed by (name of sealer), (license number), on (date of sealing). This media should not be considered a certified document.

- (c) The seal, signature, and date shall be placed on all technical submissions and calculations whenever presented to a client or any public or governmental agency.
 - (d) The seal, signature, and date shall be placed on all originals, copies, tracings, or other reproducible drawings and the first and last pages of specifications, reports, and studies in such a manner that the seal, signature, and date will be reproduced and be in compliance with rules and regulations of the board. The application of the licensee's seal and signature shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed, signed, and dated by all involved. In addition, each sheet shall be sealed, signed, and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed, signed, and dated by the licensee involved. The architect or professional engineer in responsible charge shall sign, seal, and date the title or first sheet.
 - (e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.
 - (f) The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Architect or Professional (discipline) Engineer.
 - (g) Projects involving more than one licensed architect or professional engineer shall have one designated as the coordinating professional. The coordinating professional shall apply his or her seal and signature and the date to the cover sheet of all documents and denote the seal as that of the coordinating professional.
- (4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act an enrollment card as engineer-intern which indicates that his or her name has been recorded as such in the board office. The engineer-intern enrollment card does not authorize the holder to practice as a professional engineer.

Source: Laws 1997, LB 622, § 37.

81-3438 Certificates; expiration; renewal; fees; continuing education.

Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Engineers and Architects Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education for individual licensees.

Source: Laws 1997, LB 622, § 38.

81-3439 Replacement certificates; fee.

The board may issue a new certificate of licensure or certificate of authorization to replace any lost, destroyed, or mutilated certificate. A fee not to exceed one hundred dollars shall be charged for each such issuance.

Source: Laws 1997, LB 622, § 39.

81-3440 Enforcement.

The board shall enforce the Engineers and Architects Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Source: Laws 1997, LB 622, § 40.

81-3441 Use of title; unlawful practice.

Except as provided in sections 81-3413 to 81-3415 and 81-3448 to 81-3453, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 41.

81-3442 Prohibited acts; penalties.

Any person who performs any of the following actions is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense:

- (1) Practices or offers to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act;
- (2) Knowingly and intentionally employs or retains a person to practice architecture or engineering in this state who is not licensed in accordance with the act except as provided in sections 81-3413 to 81-3415 and who is not exempted by sections 81-3448 to 81-3453;
- (3) Uses the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;
- (4) Presents or attempts to use the certificate of licensure or the seal of another person;
- (5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;
- (6) Falsely impersonates any other licensee of like or different name;

- (7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or who practices or offers to practice when not qualified;
- (8) Falsely claims that he or she is licensed or authorized under the act; or
- (9) Violates the act.

Source: Laws 1997, LB 622, § 42.

81-3443 Enforcement procedures.

Charges against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The charges, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his or her defense. The board shall set the time and place for the hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his or her last-known business or residence address known to the board, at least thirty days before the hearing. If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any order or take any action described in section 81-3444. If the board finds no violation, it shall enter an order dismissing the charges. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person has a place of business, if any. The board may reissue a license to any person whose license has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

Source: Laws 1997, LB 622, § 43.

81-3444 Disciplinary actions authorized; civil penalties.

(1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations. The following actions may be taken against a holder of a license upon a two-thirds majority vote of the board:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation;
- (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (e) Imposition of a civil penalty not to exceed ten thousand dollars for each offense. The amount of the penalty shall be based on the severity of the violation;
- (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
- (g) Issuance of a cease and desist order;

- (h) Imposition of costs as in an ordinary civil action in the district court, which may include reasonable attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
- (i) Dismissal of the action.
- (2) In hearings under this section, the board may take into account suitable evidence of reform.
- (3) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for credit to the permanent school fund. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

Source: Laws 1997, LB 622, § 44.

81-3445 State and political subdivisions; construction projects.

Except as provided in sections 81-3449 to 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer except that this section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed eighty thousand dollars.

Source: Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2. Effective date August 28, 1999.

81-3446 Construction projects on private lands; owner; duties.

- (1) The owner of any real property who allows a project to be constructed on his or her real property is engaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed professionals or persons under the direct supervision of licensed professionals to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 81-3449 and 81-3453.
- (2) For purposes of this section:
 - (a) Building official means the person appointed by the state or political subdivision having jurisdiction over the project to have principal responsibility for the safety of the project as completed;
 - (b) Construction phase service includes at least the following services:
 - (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and
 - (ii) processing technical submissions required of the contractor by the terms of contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work;
 - (c) Owner means with respect to any real property the following persons:
 - (i) The record owner of such real property;
 - (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has

- significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or
- (iii) the grantee of an easement granting right-of-way to construct the project; and
 - (d) Project means the construction, enlargement, or alteration of works involving the practice of architecture or engineering other than those exempted by sections 81-3449 to 81-3453.

Source: Laws 1997, LB 622, § 46.

81-3447 Plans, specifications, plats, and reports; public official; duty.

A public official charged with the duty or responsibility of accepting or approving plans, specifications, plats, and reports shall not accept or approve plans, specifications, plats, or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 47.

81-3448 Architect; license; application; fee; requirements; examination; issuance.

(1) A person applying to the Board of Engineers and Architects for initial licensure as an architect shall submit an application accompanied by the fee established by the board and satisfactory evidence that he or she holds a degree in architecture accredited by the National Architectural Accreditation Board and that he or she has completed practical training in architectural work as required by the Board of Engineers and Architects. If an applicant is qualified, the Board of Engineers and Architects shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. None of the examination materials shall be considered public records. The board may exempt from the written examination an applicant who holds a certification issued by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may adopt guidelines published from time to time by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accreditation Board. The Board of Engineers and Architects shall issue a certificate of licensure to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Licensure shall be effective upon issuance.

(2) Persons applying for initial licensure who do not hold a degree in architecture accredited by the National Architectural Accreditation Board shall submit an application accompanied by the fee established by the Board of Engineers and Architects. The application shall demonstrate satisfactory evidence of twelve years' combined architectural education and architectural work experience, including the equivalent of the Intern Development Program promulgated by the National Council of Architectural Registration Boards. If an applicant is determined by the Board of Engineers and Architects to meet this requirement, the board shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. Starting January 1, 2000, only individuals who have earned a bachelor of science in architectural studies degree with an architecture emphasis prior to December 31, 1999, can be considered under this subsection.

Source: Laws 1997, LB 622, § 48.

81-3449 Practice of architecture; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

- (1) The construction, remodeling, alteration, or renovation of
 - (a) a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space or
 - (b) a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;
- (2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons;
- (3) Any public works project with contemplated expenditures for a completed project that do not exceed eighty thousand dollars;
- (4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (5) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accreditation Board;
- (6) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;
- (7) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;
- (8) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:
 - (a) An architect or person otherwise permitted under subdivision (10) of this section to offer architectural services participates substantially in all material aspects of the offering;
 - (b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;
 - (c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and
 - (d) The rendering of architectural services by such architect will conform to the act and the rules and regulations;
- (9) A public service provider or an organization who employs a design professional from performing professional services for itself;
- (10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that

- (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services,
 - (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and
 - (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;
- (11) The practice of any other certified trade or legally recognized profession;
 - (12) Financial institutions making disbursements of funds in connection with construction projects;
 - (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and
 - (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Source: Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251. Operative date July 1, 2000.

81-3450 Signing and sealing of technical submissions by architect.

An architect shall not sign or seal technical submissions unless they were prepared by the architect or under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another architect employed by the first architect or by his or her firm, he or she may sign and seal those portions of the technical submissions if the architect has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may sign or seal those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of an architect if the architect has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

Source: Laws 1997, LB 622, § 50.

81-3451 Professional engineer or engineer-intern; license; application; examination; requirements.

- (1) To be eligible for admission to examination to be a professional engineer or engineer-intern, an applicant must be of good moral character and reputation and shall submit five references with his or her application for licensure as a professional engineer or enrollment as an engineer-intern. Three of the references shall be professional engineers having personal knowledge of the applicant's engineering experience or, in the case of an application for enrollment as an engineer-intern, character references.
- (2) (a) A person holding a certificate of licensure to engage in the practice of engineering, issued by the proper authority of a state or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the

time such certificate was issued may, upon application, be licensed as a professional engineer without further examination.

(b) A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying whose qualifications as evidenced by the Council Record meet the requirements of the act may, upon application, be licensed as a professional engineer without further examination.

(c) A graduate of an Accrediting Board for Engineering and Technology accredited engineering curriculum, enrolled as an engineer-intern, and having a specific record of an additional four years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, on the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if the applicant is otherwise qualified. Engineering teaching of advanced subjects and the design of engineering research and projects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more may be considered as engineering experience. An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree but who is enrolled as an engineer-intern in this state and has a specific record of an additional six years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if otherwise qualified.

(3) (a) A graduate of or senior in an Accrediting Board for Engineering and Technology accredited engineering curriculum shall be admitted to an eight-hour examination on the fundamentals of engineering. Upon passing the examination and verification of graduation, the applicant shall be enrolled as an engineer-intern.

(b) An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree may be admitted to the fundamentals of engineering examination if he or she has six years of engineering work experience or engineering-related education. Upon passing the examination, the applicant shall be enrolled as an engineer-intern. This subdivision terminates on January 1, 2005.

Source: Laws 1997, LB 622, § 51.

81-3452 Engineering examinations; board; procedure.

(1) The board or its agent shall direct the time and place of engineering examinations. The board shall determine the acceptable grade on examinations.

(2) The examination will be given in two sections and may be taken only after the applicant has met the other minimum requirements as described in section 81-3451 and has been approved by the board for admission to the examination as follows:

(a) The fundamentals of engineering examination consists of an eight-hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-intern enrollment card if all other requirements for certification are met; and

(b) The principles and practice of engineering examination consists of an eight-hour test period on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer if all other requirements for certification are met.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. They shall be published in brochure form and be available to any person interested in being licensed or certified.

Source: Laws 1997, LB 622, § 52.

81-3453 Practice of engineering; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

- (1) The construction, remodeling, alteration, or renovation of
 - (a) a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space or
 - (b) a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;
- (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons;
- (4) Any public works project with contemplated expenditures for the completed project that do not exceed eighty thousand dollars;
- (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (6) The teaching, including research and service, of engineering subjects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more;
- (7) The act does not prevent a public service provider or an organization who employs a design professional from performing professional services for itself;
- (8) The practice of any other certified trade or legally recognized profession;
- (9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;
- (10) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (8) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

- (11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
- (12) Financial institutions making disbursements of funds in connection with construction projects;
- (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;
- (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;
- (15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;
- (16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply; and
- (17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission.

Source: Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252. Operative date July 1, 2000.

81-3454 Sealing and signing of technical submissions by professional engineer.

- (1) A professional engineer shall not affix his or her seal or signature to sketches, working drawings, specifications, or other documents developed by others not under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another professional engineer employed by the first professional engineer or by his or her firm, he or she may sign and seal those portions of the technical submissions if the professional engineer has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may sign or seal those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of a professional engineer if the professional engineer has reviewed or adapted in whole or in part such submission and integrated them into his or her work.
- (2) In the case of a temporary permit issued to a professional engineer of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and a copy of the temporary permit to all his or her work.

Source: Laws 1997, LB 622, § 54.

81-3455 Act, how construed.

The Legislature declares that the Engineers and Architects Regulation Act is necessary for the public convenience and welfare, is remedial in nature, and shall be construed liberally. Nothing in the act shall be construed to establish a statewide building code.

Source: Laws 1997, LB 622, § 55.